



IT IS ORDERED

Date Entered on Docket: December 22, 2017

The Honorable Robert H Jacobvitz
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re: Southwest Lath and Plaster Company, Inc.
a New Mexico corporation,
EIN: 85-0228161,
Debtor.

No. 11-17-11251 JA

**STIPULATED AND DEFAULT ORDER MODIFYING AUTOMATIC STAY
AND FOR ABANDONMENT OF PROPERTY
(Creditor Clifford Family Intervivos Trust)**

THIS MATTER came before the Court upon the stipulation of the Debtor and Creditor Clifford Family Intervivos Trust (hereinafter, "Creditor"), by and through their undersigned counsel. The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

- a. The Debtor filed a petition under Chapter 11 of the Bankruptcy Code on May 17, 2017.
- b. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and 11 U.S.C. § 506. This is a core proceeding under 28 U.S.C. § 157(b)(2). Jurisdiction and venue are proper in this Court.

c. Creditors' Motion for Relief from Automatic Stay and for Abandonment of Property (the "Motion") was filed on October 23, 2017 (Doc. No. 35).

d. On October 23, 2017, Creditor served notice of the Motion, along with a copy of the Motion, by mail or by use of the Court's case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, on the Debtor, all creditors and other parties in interest shown on the mailing list maintained by the Clerk of the Bankruptcy Court for this case, specifying an objection deadline of 21 days from the date of service, to which three days was added under Bankruptcy Rule 9006(f).

e. The Debtor filed a timely Response on November 17, 2017 (Doc. No. 44). No other responses to the Motion were filed, timely or otherwise.

f. The Motion states that the Debtor is the Lessee pursuant to a month-to-month lease as a holdover tenant resulting from a Lease between Creditor as a Lessor and Debtor as Lessee entered into on or about May 8, 2015 (the "Lease"), regarding that certain property located at 5154 Edith Blvd. NE, Lot B, Albuquerque, N.M. 87107 (the "Property"), as more fully described in the Lease, a true and correct copy of which is attached to the Motion as Exhibit "A."

g. The Debtor and Creditor have reached a stipulation modifying the automatic stay with regard to the Lease and abandoning the Property, as set forth herein.

h. The stipulation should be approved.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. The Motion is granted and the stipulation is approved, and the automatic stay provided for in 11 U.S.C. §362(a) is hereby modified pertaining to the Debtor, the Lease and the Property, and with regard to any other parties claiming an interest in the Property, in order that Creditor may pursue Creditor's rights under the Lease, including the transmittal of any default

letter or notice required, as a result of the defaulted payments, and, if the defaulted payments are not timely cured, allowing the Creditor to terminate the Lease or otherwise repossess the Property and pursue all of Creditor's other rights under the Lease pursuant to the laws of the State of New Mexico. The automatic stay remains in effect unmodified with respect to the collection of amounts owed by Debtor under the Lease.

2. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

3. The Property is deemed abandoned upon entry of this Order.

4. The fourteen (14) day stay requirement of F.R.B.P. 4001(a)(3) is hereby waived, and this Order is effective immediately.

5. Nothing in this Order shall preclude the Debtor from paying Creditor any and all post-petition rent due to Creditor as part of an agreement to reinstate the Lease or as part of a new Lease agreement.

###END OF ORDER###

Submitted by:

HUNT & DAVIS, P.C.
s/ submitted electronically 12/19/2017
Chris W. Pierce
2632 Mesilla St. NE
Albuquerque, NM 87110
(505) 881-3191 phone
chris@huntedavislaw.com
Attorneys for Creditor

Approved:

William F. Davis & Assoc., P.C.
s/ approved by email 12/18/2017

William F. Davis, Esq.

Nephi D. Hardman, Esq.

6709 Academy Rd NE, Ste A

Albuquerque NM 87109

Telephone: (505) 243-6139

Fax: (505) 247-3185

daviswf@nmbankruptcy.com

nhardman@nmbankruptcy.com

Attorneys for Debtor

Copy to:

U.S. Trustee

PO Box 608

Albuquerque, NM 87103-0608

(505) 248-6544